



Sen. Ira I. Silverstein

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09500SB2426sam003

LRB095 19685 RLC 49425 a

1 AMENDMENT TO SENATE BILL 2426

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2426 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 12-7.5 as follows:

6 (720 ILCS 5/12-7.5)

7 Sec. 12-7.5. Cyberstalking.

8 (a) A person commits cyberstalking when he or she,  
9 knowingly and without lawful justification, on at least 2  
10 separate occasions, harasses another person through the use of  
11 electronic communication and:

12 (1) at any time transmits a threat of immediate or  
13 future bodily harm, sexual assault, confinement, or  
14 restraint and the threat is directed towards that person or  
15 a family member of that person, or

16 (2) places that person or a family member of that

1 person in reasonable apprehension of immediate or future  
2 bodily harm, sexual assault, confinement, or restraint; or  
3 -

4 (3) at any time knowingly solicits the commission of an  
5 act by any person which would be a violation of this Code  
6 directed towards that person or a family member of that  
7 person.

8 (a-5) A person commits cyberstalking when he or she,  
9 knowingly and without lawful justification, creates and  
10 maintains an Internet website or webpage which is accessible to  
11 one or more third parties for a period of at least 24 hours,  
12 and which contains statements harassing another person and:

13 (1) which communicates a threat of immediate or future  
14 bodily harm, sexual assault, confinement, or restraint,  
15 where the threat is directed towards that person or a  
16 family member of that person, or

17 (2) which places that person or a family member of that  
18 person in reasonable apprehension of immediate or future  
19 bodily harm, sexual assault, confinement, or restraint, or

20 (3) which knowingly solicits the commission of an act  
21 by any person which would be a violation of this Code  
22 directed towards that person or a family member of that  
23 person.

24 (b) As used in this Section:

25 "Harass" means to engage in a knowing and willful course of  
26 conduct directed at a specific person that alarms, torments, or

1 terrorizes that person.

2 "Third party" means any person other than the person  
3 violating these provisions and the person or persons towards  
4 whom the violator's actions are directed.

5 "Electronic communication" means any transfer of signs,  
6 signals, writings, sounds, data, or intelligence of any nature  
7 transmitted in whole or in part by a wire, radio,  
8 electromagnetic, photoelectric, or photo-optical system.

9 "Electronic communication" includes transmissions by a  
10 computer through the Internet to another computer.

11 (c) Sentence. Cyberstalking is a Class 4 felony. A second  
12 or subsequent conviction for cyberstalking is a Class 3 felony.

13 (d) Telecommunications carriers, commercial mobile service  
14 providers, and providers of information services, including,  
15 but not limited to, Internet service providers and hosting  
16 service providers, are not liable under this Section, except  
17 for willful and wanton misconduct, by virtue of the  
18 transmission, storage, or caching of electronic communications  
19 or messages of others or by virtue of the provision of other  
20 related telecommunications, commercial mobile services, or  
21 information services used by others in violation of this  
22 Section.

23 (Source: P.A. 92-199, eff. 8-1-01.)

24 Section 10. The Harassing and Obscene Communications Act is  
25 amended by changing Section 1-2 as follows:

1 (720 ILCS 135/1-2)

2 Sec. 1-2. Harassment through electronic communications.

3 (a) Harassment through electronic communications is the  
4 use of electronic communication for any of the following  
5 purposes:

6 (1) Making any comment, request, suggestion or  
7 proposal which is obscene with an intent to offend;

8 (2) Interrupting, with the intent to harass, the  
9 telephone service or the electronic communication service  
10 of any person;

11 (3) Transmitting to any person, with the intent to  
12 harass and regardless of whether the communication is read  
13 in its entirety or at all, any file, document, or other  
14 communication which prevents that person from using his or  
15 her telephone service or electronic communications device;

16 (3.1) Transmitting an electronic communication or  
17 knowingly inducing a person to transmit an electronic  
18 communication for the purpose of harassing another person  
19 who is under 13 years of age, regardless of whether the  
20 person under 13 years of age consents to the harassment, if  
21 the defendant is at least 16 years of age at the time of  
22 the commission of the offense;

23 (4) Threatening injury to the person or to the property  
24 of the person to whom an electronic communication is  
25 directed or to any of his or her family or household

1 members; or

2 (5) Knowingly permitting any electronic communications  
3 device to be used for any of the purposes mentioned in this  
4 subsection (a).

5 (b) As used in this Act:

6 (1) "Electronic communication" means any transfer of  
7 signs, signals, writings, images, sounds, data or  
8 intelligence of any nature transmitted in whole or in part  
9 by a wire, radio, electromagnetic, photoelectric or  
10 photo-optical system. "Electronic communication" includes  
11 transmissions by a computer through the Internet to another  
12 computer.

13 (2) "Family or household member" includes spouses,  
14 former spouses, parents, children, stepchildren and other  
15 persons related by blood or by present or prior marriage,  
16 persons who share or formerly shared a common dwelling,  
17 persons who have or allegedly share a blood relationship  
18 through a child, persons who have or have had a dating or  
19 engagement relationship, and persons with disabilities and  
20 their personal assistants. For purposes of this Act,  
21 neither a casual acquaintanceship nor ordinary  
22 fraternization between 2 individuals in business or social  
23 contexts shall be deemed to constitute a dating  
24 relationship.

25 (c) Telecommunications carriers, commercial mobile  
26 service providers, and providers of information services,

1 including, but not limited to, Internet service providers and  
2 hosting service providers, are not liable under this Section,  
3 except for willful and wanton misconduct, by virtue of the  
4 transmission, storage, or caching of electronic communications  
5 or messages of others or by virtue of the provision of other  
6 related telecommunications, commercial mobile services, or  
7 information services used by others in violation of this  
8 Section.

9 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)".